

ALAMEDA'S COOPERATIVE OCCUPANCY AGREEMENT
(Proprietary Lease)

THIS AGREEMENT, DATED ____ /date / _____ BY AND BETWEEN ALAMEDA'S COOPERATIVE (hereinafter referred to as) THE "COOPERATIVE" and (Name) (hereinafter referred to as) TENANT SHARE HOLDER or MEMBER

WITNESSETH: WHEREAS:

The purpose of the Cooperative is to acquire, own, and operate a senior (55 and older) cooperative housing project and its Tenant Share Members shall have the right to occupy its dwelling units under the terms and conditions set forth in this agreement:

Member is the owner and holder of a share certificate of membership of the Cooperative and intends to occupy a dwelling unit in the project as a residence; and Member has certified to the accuracy of the statements in Member's application.

TO HAVE AND TO HOLD dwelling unit Number ____ on the terms and conditions set forth in this agreement, in the corporate charter, bylaws, and any other rules and regulations of the Cooperative. The term of this agreement shall be self renewing in perpetuity, providing member remains a shareholder, adhere to this occupancy agreement and observes the "house rules".

ARTICLE 1 . OCCUPANCY CHARGES (COOP FEE).

A. **General.** Commencing at the time indicated in ARTICLE 2, the Member agrees to pay to the Cooperative a monthly sum referred to as the "Occupancy Charge." This amount will be equal to one ninth of the Member's proportionate share of the total amount required by the Cooperative, as estimated by the board of directors, to meet its annual

expenses. Any share loan (mortgage) member may have will be in addition to the monthly coop fee.

The monthly coop fee or occupancy charge includes, but are not limited to, the following items:

- Project operating expenses and cost of services furnished.
- Necessary management reserve and administrative costs.
- Taxes and assessments levied against the project or the Cooperative which it is required to pay.
- Fire and extended coverage insurance on the project any other insurance which the Cooperative may require.
- The cost of furnishing any water, electricity, heat, gas, garbage and trash collection, and other utilities, if furnished by the Cooperative.
- Payments to other reserves set up by the board of directors.
- Estimated costs of repairs, maintenance, and replacements of project property to be made by the Cooperative.
- The amount of principal, interest, and any other required payments on any indebtedness of the Cooperative (currently the Co-op has a \$40,000 loan).
- Any other expenses of the Cooperative approved by the board of directors, including operating deficiencies, if any for prior periods.

B. Amount of Occupancy Charge. The board of directors shall determine the amount of the occupancy charges annually, but may do so at more frequent intervals should circumstances so require. No Member shall be charged with more than the appropriate share determined by the board of directors. That amount of the occupancy charge required for payment on the principal of mortgage of the Cooperative or any other capital expenditures shall be credited upon the books of the Cooperative as a capital contribution by the Members. Until further notice from the Cooperative, the current monthly charge for the above-mentioned dwelling unit shall be \$ 760 per month or \$25 per day.

C. Time of Occupancy Charge. After thirty days' notice by the Cooperative that the dwelling unit is available for occupancy or upon

acceptance of occupancy, whichever is earlier, Member shall make a payment for occupancy charge covering the unexpired balance of the month. Thereafter, Member shall pay occupancy charge in advance on the first day of each month. Alternatively, shareholder can place unit in the Co-ops Guesthouse Program.

D. Late Charges. In addition to all other sums due or to become due under this agreement, Member shall pay to the Cooperative a late charge, not to exceed \$10.00, at any time payment of occupancy charges, or part thereof, is more than 10 days late. This late fee may be waived, depending on the circumstances and at the discretion the Board.

ARTICLE 2. PATRONAGE REFUNDS.

The board shall, on the books of the Cooperative, assign to Member in accordance with the Internal Revenue Service ruling concerning patronage capital, a proportionate share of money collected in excess of the amount needed for Cooperative expenses, including reserves, and Members will be notified of the amount assigned each year.

ARTICLE 3. OPTION TO RENEW.

It is agreed that the term of occupancy shall be self renewed as long as the Tenant Share Holder abides by the house rules and pays their monthly coop fee.

ARTICLE 4. OCCUPANCY.

Section A. Peaceable Possession. In return for Member's continued fulfillment of the terms and conditions of this agreement, the Cooperative agrees that the Member may at all times while this agreement remains in effect, have and enjoy for the Member's sole use and benefit the dwelling unit and community facilities herein above described.

Section B. Occupancy. Member shall occupy the dwelling unit covered by this agreement as a private dwelling unit for the Member and/or immediate adult household and for no other purpose. The Member

shall have use of all common community property and facilities of the project so long as Member continues to own a membership share certificate of the Cooperative, occupies the assigned dwelling unit, and abides by the terms of this agreement.

Section C. Authorized Use of Premises. Members shall use the premises and the common property and facilities in conformance with the terms of this agreement, the bylaws, and the rules. Use of the premises or any part of the premises for any purpose contrary to the interests of the Cooperative or its members as determined by the Cooperative or contrary to law is not authorized. It shall be the duty of the Member to respect the comfort and peace of mind of neighbors as well as of all members and guests of the Cooperative, not to engage in conduct that is objectionable conduct, and to ensure that all persons occupying or visiting the premises so act. Member agrees not to do or allow to be done, or keep or allow to be kept upon the premises, anything that will increase the rate of insurance on the premises or do or allow to be done any act or thing that shall or may be a nuisance, annoyance, inconvenience, or damage to the Cooperative or its members or tenants, or to the occupants of adjoining dwellings or of the neighborhood.

Section D. House Rules. The board may impose any reasonable Rules not inconsistent with the bylaws, and may change the rules from time-to-time as in its judgment may be necessary or desirable for, among other purposes, the safety, care, and cleanliness of the premises, common facilities, and surrounding dwellings, and for the preservation of good order, comfort therein, and Member agrees to observe and comply faithfully with such rules, and agrees that all persons occupying or visiting in the premises also shall observe and comply with such rules.

ARTICLE 5. OPERATING SERVICES, UTILITIES AND RESERVES.

Section A. Duties of the Cooperative. The Cooperative shall: (i) provide necessary management and administration of the Cooperative; (ii) provide for the payment of all taxes and assessments levied against the Cooperative; (iii) procure and provide for the payment of fire and extended coverage and public liability insurance and provide purchase of such other insurance or self-insurance, coverage and protection as the board may deem advisable, including insurance on the premises, but such insurance or self-insurance shall NOT cover Member's personal property, including alterations, betterments, or improvements in, on, or appurtenant to the premises; (iv) set up reserves to cover contingencies, repurchases, and future costs of replacements; and (v) subject to different provisions that may be contained in the house rules, from time-to time, pay for all current repairs, maintenance and replacements on the items provided by the Cooperative in accordance with the general maintenance program described in this agreement, except that repairs, maintenance, and replacements necessitated by the negligence of Member or any person occupying or visiting in the premises shall be paid for by the Member.

Section B. Member Duties. Heating, hot water, water and sewer charges will not be individually metered and billed, and Cooperative shall pay for these charges directly to the appropriate utility companies. Air conditioner are not in any of the tenant share member units. If desired the share member must request one and if approved, may incur an additional energy charge.

ARTICLE 6. MAINTENANCE AND REPAIRS.

Section A. General Maintenance Program. The Cooperative shall have the exclusive authority to direct from time-to-time the manner of maintaining, repairing, and replacing the premises and the equipment in the premises owned by the Cooperative. The expense of making all repairs or taking any other action necessitated by negligence of Member or of persons occupying or visiting the member on the premises shall be paid entirely by Member.

Section B. Member Maintenance Responsibilities. Member agrees to repair and maintain Member's dwelling unit at own expenses as follows:

- Any repairs or maintenance necessitated by Member's own negligence or misuse;
- Any redecoration of own dwelling unit authorized, done or contracted for by Member;

Section C. Access to Premises. Member agrees to the right of the officers of the Cooperative to authorize entrance to Member's dwelling unit in order to complete necessary repairs, maintenance, and replacements and to authorize entrance for such purposes by employees of any contractor, utility company, municipal agency, or others at any reasonable hour of the day and upon reasonable notice. In the event of emergency, the unit may be entered at any time. Notification of entry will be left for the member by the person performing the maintenance or repair.

Section D. Alterations and Additions. The Member shall not, without the written consent of the Cooperative make any wall, floor or structural alterations in the premises or in the water, gas, electrical conduits, plumbing or other fixtures connected therewith, or remove any additions, improvements, or fixtures from the premises.

ARTICLE 7. EFFECT INTERESTS OF MEMBER OF SEVERE DAMAGE OR LOSS.

Section A.

In the event of loss or damage by fire or other casualty to Member's dwelling unit without fault or negligence of Member, the Cooperative shall determine (1) whether to restore the damaged premises and, if not, (2) provide an alternative unit, if available, for the share member and (3) amount of reimbursement, if any, due member for losses.

Section B.

If, under such circumstances, the Cooperative decides to restore the premises, occupancy charges shall stop wholly or partially, as determined by the Cooperative, until the premises have been restored. If, on the other hand, the Cooperative decides not to restore the premises, the occupancy charges shall cease from the date of such loss or damage.

ARTICLE 8. SUBLETTING and the GUESTHOUSE Program

Section A. Tenant Share members shall not under any circumstance sublet or sublease their unit privately. Any attempt to do so shall, at the option of the Cooperative, will result in termination and forfeiture of Member's rights under this occupancy agreement.

Section B. When not occupying their unit, Tenant Share Members have the option of participating in the Cooperative's Guest House program. Their dwelling unit will be rented out on a nightly or weekly basis. All bookings for nightly and weekly stays through the Guesthouse program are done through the

Cooperative's property management office. Participation in the guesthouse program is voluntary and may require an additional written agreement between the Cooperative and the Tenant Share member. The member's monthly coop fee is covered by the cooperative if Share Holder places unit in the guesthouse program. (Co-op pays it from rental proceeds).

ARTICLE 9. TRANSFERS.

Neither this agreement nor Member's right of occupancy shall be transferrable or assignable except as provided in the bylaws of the Cooperative. When a tenant Share Holder wishes to sell their share, their specific unit does not automatically go with their share. Since not all units are equal, there is a waiting list, based on seniority for moving into different units. Once a share member notifies the cooperative that they want to sell their market equity share, the Cooperative will notify those current tenant share members (who are currently leasing another unit), that the selling shareholders unit may become available.

The "unit lease" cost to transfer leased units is based on a hybrid "limited equity" formula: you only get back what you paid for any authorized improvements made by the coop or a licensed contractor. A tenant share member will not be reimbursed for their personal labor, however, if they did do authorized work themselves, they can get reimbursed for any materials. All renovation receipts must be kept on file in the Cooperative property management office. No receipt, no reimbursement on dwelling unit transfer.

ARTICLE 10. TERMINATION/EFFECT OF TERMINATION.

Section A. General. This agreement will terminate according to and subject to the terms in this agreement and, as applicable, the bylaws. All of Member's rights and interest in the perpetual use of the premises shall terminate immediately when this agreement terminates or when the Share Member sells/transfers their share.

Section B. Definition. If, at any time after the happening of any event specified in clauses (a) through (i) below, the Cooperative gives to Member a 10 day notice of termination, this occupancy agreement and all Member's rights under this agreement will expire on the date specified in such notice. In the meantime the default may be cured in a manner deemed satisfactory by the Cooperative. After 10 days following such expiration of Member's rights, the Cooperative may reenter the dwelling unit and remove all persons and personal property therefrom, by any means available to it by law, and may repossess the dwelling unit in its former state as if this agreement had not been made.

- (a) If, during the term of this agreement, Member ceases to be the owner and legal holder of a tenant share member certificate of the Cooperative
- (b) If Member attempts to transfer or assign this agreement in a manner inconsistent with the provisions of the bylaws.
- (c) If, during continuance of this agreement, Member is declared bankrupt under the laws of the United States so as to be released from any debt or obligation to the Cooperative or to interfere with his full exercise of his/her rights as Member and occupant.
- (d) If, during continuance of this agreement, a receiver of Member's property is appointed under the laws of the United States or of any State.
- (e) If, during continuance of this agreement, Member shall make a general assignment for the benefit of creditors.
- (f) If, during continuance of this agreement, any of the membership rights in the Cooperative owned by Member are duly levied upon and sold under the process of any court.
- (g) If Member fails to effect and/or pay for repairs and maintenance as provided for in Article 6.
- (h) If Member fails to pay any sum due pursuant to Article 1.
- (i) If default occurs with respect to any obligation of Member under this agreement.

Section C. Re-entry. Member hereby expressly waives any and all right to reenter the dwelling if the eviction is by judgment of any court or judge. The words “enter,” “reenter,” or “reentry” as used in this agreement are not restricted to their technical legal meaning. In the event of a breach by Member of the terms of this agreement, the Cooperative shall have the right of injunction and the right to invoke any remedy allowed at law or in equity, as if reentry, summary proceedings, and other remedies were not provided for.

Section D. Remedies. Failure by the Cooperative to avail itself of any remedy given under this agreement shall not waive or destroy any right of the Cooperative to avail itself of remedies for any similar or other breach or default by Member.

Section E. Notice. Notice by the Cooperative under any of the conditions described in Article 10 shall be in writing.

ARTICLE 11. SUBORDINATION.

This agreement and all rights, privileges, and benefits hereunder shall be at all times subject and subordinate to any lien of any mortgage, deed of trust, chattel mortgage, note or other instrument made by the Cooperative or on the property of the Cooperative in existence at the time of this contract or hereinafter created. Member hereby agrees to execute, at the Cooperative’s request and expense, any instrument which the Cooperative or any lender or mortgagee may deem necessary or desirable to subordinate this agreement to any such security instrument. Member hereby appoints the Cooperative and each and every officer thereof, and any future officer, as irrevocable attorney-in-fact during the term of the agreement to execute any such instrument on behalf of Member.

ARTICLE 12. PERSONAL LIABILITY OF MEMBER FOR DEBTS OF THE COOPERATIVE.

Member shall not be personally liable for any debt or other obligation of the Cooperative. In the event the Cooperative becomes insolvent or a receiver is appointed to take possession of the Cooperative property, or the Cooperative makes an assignment for the benefit of creditors, or is granted relief under any bankruptcy statute, then at any time within a period of thereafter, Member shall have the right and option to terminate this agreement by serving notice of such termination on the Cooperative or its representative, and except such liabilities as have accrued and are due and payable on the the date of the exercise of this right and option, all liabilities Member has assumed hereunder shall cease and terminate upon serving notice of such termination.

ARTICLE 13. PAYMENT OF LEGAL EXPENSES.

Member and the Cooperative hereby agree that in any legal action in any forum brought by Member against the Cooperative or against any of its directors, officers, or employees relating to any act of omission under this agreement, the bylaws, or the rules, which action is decided against the Member, Member shall pay the expenses of the Cooperative and its directors, officers, and employees resulting from that legal action. The term “expenses” includes but is not limited to actual attorneys’ fees and all other costs (including administrative costs), fees, disbursement, and court fees incurred.

ARTICLE 14. CONDEMNATION PROCEEDINGS.

Whenever the State, a political subdivision, or any other corporation, agency, or authority (collectively, “Condemning Authority”) having the power of eminent domain shall seek to acquire any property of the Cooperative, including the premises, Member agrees that the board shall have the authority to negotiate with the Condemning Authority as Member’s representative, and the board may execute and deliver the appropriate conveyance for all agreed consideration, except as may otherwise be provided in any mortgage or deed of trust affecting the property. Subject to the foregoing provisions, in any condemnation proceeding, Member and Member’s authorized assignees shall be

entitled to seek just damages for the taking of the premises as allowed by law, including severance damages, if any.

ARTICLE 15. MISCELLANEOUS.

Section A. Notices. Whenever any bylaw of Cooperative, any law, or this agreement requires notice to be given to either party, any notice or demand by the Cooperative to Member shall be considered to have been duly given if the same is delivered to Member at Member's dwelling unit or to Member's last known address. Any notice or demand by Member to the Cooperative shall be considered to have been duly given if delivered to an officer of the Cooperative. Such notice may also be given by depositing same in the United States mails addressed to Member as shown on the books of the Cooperative, or to the president of the Cooperative, as the case may be, and the time of mailing shall be the time of giving such notice.

Section B. Representations. No representation other than those contained in this the charter and the Bylaws of the Cooperative shall be binding upon the Cooperative.

Section C. Modification of the Agreement. This agreement may be changed or modified by an amendment to the bylaws approved by the Cooperative membership as provided in the bylaws. Except as provided in the preceding sentence, no change or modification of this agreement shall be valid unless the same shall be in writing and signed by the parties to this agreement.

Section D. Severability. The provisions of this agreement are severable and in the event any provision of the agreement conflicts with applicable law or is found to be invalid, such conflict or invalidity shall not affect the other provisions of this agreement.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed and sealed the day and year first above written.

(Cooperative) _____

(Member) _____